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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,630	07/19/2001	Yakov Kamen	007287.00016	9979
22907 7590 11/17/2009 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051				
EXAMINER CASCHERA, ANTONIO A				
ART UNIT		PAPER NUMBER		
2628				
MAIL DATE		DELIVERY MODE		
11/17/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/909,630

**Applicant(s)**

KAMEN, YAKOV

**Examiner**

Antonio A. Caschera

**Art Unit**

2628

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 11-17 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 11 and 21 is/are rejected.
- 7) ☒ Claim(s) 2-7, 12-17 and 22-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Priority*

1. This application claims the benefit of application no. 60/241,885, filed 10/19/2000.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 11 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bedard (U.S. Patent 5,793,438).

In reference to claim 1, Bedard discloses a computer-implemented method (see column 1, lines 20-25 and column 3, lines 17-22) comprising:

(a) receiving, at a computing device, a selection of an object displayed in an electronic programming guide (EPG) (see column 3, lines 23-36, columns 3-4, lines 62-6, column 4, lines 41-47, column 5, lines 8-22 and 42-49 wherein Bedard discloses a method of receiving a selection to manipulation a magnified area within an EPG via a remote control or other control means.);

(b) modifying a non-textual attribute associated with the object by an incremental amount for each of at least two times that the object is selected, wherein the non-textual attribute after each modification visually indicates a number of times the object has been selected, wherein

each modification of the attribute includes changing a visible characteristic of the object and wherein each modification results in a different appearance of the object (see column 5, lines 8-22 and Figure 5 wherein Bedard discloses that upon manipulation (via selection) of the magnified area of the EPG, the area is incrementally shifted (by  $\frac{1}{2}$  hr increments as seen in at least Figure 5) left or right dependent upon user's input. Bedard inherently discloses that one may gather a number of times the magnified area has been selected via where (i.e. at what time slot) the area is currently positioned with reference to a starting time (i.e. current time). Further, Examiner interprets that the non-textual attribute and the visible characteristic of the magnified area that is changed is the screen position of the area as selection of the area modifies its position resulting in a different appearance of the object as it is seen within the EPG.); and

(c) modifying the display of the object in accordance with the modified non-textual attribute (see column 5, lines 5-22 and Figure 5 wherein Bedard discloses that upon manipulation (via selection) of the magnified area of the EPG, the area is incrementally shifted (by  $\frac{1}{2}$  hr increments as seen in at least Figure 5) left or right dependent upon user's input. The Examiner interprets that the non-textual attribute and the visible characteristic of the magnified area that is changed is the screen position of the area as selection of the area modifies its position resulting in a different appearance of the object as it is seen within the EPG.).

In reference to claims 11 and 21, claims 11 and 21 are equivalent in scope to claim 1 and is therefore rejected under like rationale. In addition to the above rationale as applied to claim 1, Bedard discloses the settop unit to comprise of a microprocessor (see column 3, lines 37-49) which inherently comprises some sort of memory for storing instructions that are executed by the microprocessor.

***Response to Arguments***

3. In view of the pre-appeal brief conference request filed on 08/21/09 and the pre appeal conference decision filed on 02/26/08, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth above.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

4. Applicant's arguments, see page 6 of Applicant's Remarks, filed 07/20/09, with respect to the 35 USC 101 rejection of claims 21-27 have been fully considered and are persuasive. The 35 USC 101 rejection of these claims has been withdrawn.

5. Applicant's arguments, see pages 6-7 of Applicant's Remarks, filed 07/20/09, with respect to the 35 USC 112 rejection of claims 1-7, 11-17 and 21-27 have been fully considered and are persuasive. The 35 USC 112 rejection of the claims has been withdrawn.

***Allowable Subject Matter***

6. Claims 2-7, 12-17 and 22-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781. The examiner can normally be reached Monday-Friday between 7:00 AM and 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung, can be reached at (571) 272-7794.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**571-273-8300 (Central Fax)**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

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/Antonio A Caschera/

Primary Examiner, Art Unit 2628

**11/17/09**